

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Samuel Der-Yeghiayan	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	12 C 6709	DATE	2/12/2013
CASE TITLE	Marcus Rush (K-57386) vs. Tom Dart		

DOCKET ENTRY TEXT

For the reasons sated below, and since Plaintiff has failed to pay the filing fee or file an accurately and properly completed in forma pauperis application form with an updated prison trust account statement by February 5, 2013, this action is dismissed. Rush's motion for appointment of counsel is denied as moot. All pending motions are hereby stricken as moot. Civil case terminated.

■[For further details see text below.]

Docketing to mail notices.

STATEMENT

This matter is before the court on Plaintiff Marcus Rush's (Rush) third motion for leave to proceed *in forma pauperis* and motion for appointment of counsel. The court notes that Rush also has filed another case in 12 C 8727. On October 30, 2012, the court denied Rush's first motion for leave to proceed *in forma pauperis*. The court gave Rush until December 4, 2012, to either pay the filing fee or file an accurately and properly completed *in forma pauperis* application form with an updated prison trust account statement. The court warned Rush that if he failed to pay the filing fee or file an accurately and properly completed *in forma pauperis* application form with an updated prison trust account statement by December 4, 2012, this case would be dismissed.

The docket in this case indicates that a notice of change of address was entered in this case, and that on November 27, 2012, the Clerk's Office mailed Rush another copy of this court's October 30, 2012 ruling. Since Rush is proceeding *pro se* and is incarcerated, on December 5, 2012, the court extended the deadlines in this case. The court gave Rush until January 3, 2013, to either pay the filing fee or file an accurately and properly completed *in forma pauperis* application form with an updated prison trust account statement. The

STATEMENT

court also warned Rush that if he failed to pay the filing fee or file an accurately and properly completed *in forma pauperis* application form with an updated prison trust account statement by January 3, 2013, this case would be dismissed.

On December 17, 2012, Rush filed a second motion for leave to proceed *in forma pauperis* and a motion for extension of time to get the necessary paperwork to support his *in forma pauperis* motion. Since Rush is proceeding *pro se*, the court granted Rush one final extension. The *in forma pauperis* application form filed on December 17, 2012, was stricken without prejudice. Rush was given until February 5, 2013, to either pay the filing fee or file an accurately and properly completed *in forma pauperis* application form with an updated prison trust account statement. Rush was warned that if he failed to pay the filing fee or file an accurately and properly completed *in forma pauperis* application form with an updated prison trust account statement by February 5, 2013, this case would be dismissed.

On January 25, 2013, Rush filed the instant motion. However, Rush has failed to file with his motion a proper updated prison trust account statement. Pursuant to 28 U.S.C. § 1915(a)(2), a prisoner is required to file with an *in forma pauperis* application “a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint . . . obtained from the appropriate official of each prison at which the prisoner is or was confined.” 28 U.S.C. § 1915(a)(2). Rush has merely attached to the instant motion a prison trust account statement for his current place of incarceration, which only reflects his financial history since December 2012, and on which the prison official has written that Rush has only been there for one month. Therefore, since Rush has failed to pay the filing fee or file an accurately and properly completed *in forma pauperis* application form with an updated prison trust account statement by February 5, 2013, this action is dismissed. Rush’s motion for appointment of counsel is denied as moot.